

REMARKS

By virtue of the previous amendment, Claim 1 was amended by deleting oxygen from the definition of X to more clearly distinguish the claimed process from the disclosures of the cited references, Claim 4 was cancelled accordingly, and a minor editorial revision was effected in Claim 9. In the remarks of that amendment, applicants also pointed out why the claims are patentable over the disclosures of the cited references, whether considered alone or in combination, and that the Examiner had failed to establish a prima facie case of obviousness.

Nonetheless, the claims have again been rejected under 35 U.S.C. 103(a), for obviousness in view of the disclosures of (1) Kim et al., Tetrahedron Lett. (2001), 42, 2413 [item 4 on pages 3-4 of the Action] as well as in view of the combination of references (1) [see above], with (2) Lee et al. Bull.Korean Chem. Soc. 2002, 23, p. 19-20 and with (3) Williams et al. Chem. Rev. 1981, 81, 589-639 [item 5 on pages 4-5 of the Action]. These rejections, the only ones set forth in the Action, are again respectfully traversed.

It is noted at the outset, that the Examiner's brief Response to Arguments, set forth in item 3 on page 2 of the Action, merely summarizes applicants arguments and makes a conclusory assertion of obviousness without showing support therefore in the cited references. As discussed in the previous response, neither Kim et al., taken alone, nor the combination of its disclosure with those of Lee et al. and Williams et al. discloses or suggests that an efficient cyclization reaction can take place for compounds in which X is NR5 or sulfur. Indeed, the Examiner has conceded as much in the second paragraph on page 5 of the Action. The Examiner's discussion of the secondary references is conclusory in nature and fails to point to any disclosure that in any way suggests Applicants' discovery that their particular cyclization reaction occurs when TsCl is used and X=NR5 or sulphur!

Thus, Kim et al, especially the complete document (Tetrahedron Letters 40 (1999) 8201-8204) to which the Corrigendum cited by the Examiner relates, and the document Kim II et al. (Tetrahedron 57(2001) 7137-7142) show that the product of the cyclization reaction is very sensitive to changes in the starting material and the reaction conditions, e.g. the base used. From a review of these documents, a person skilled in the art could not predict with which position the TsCl would react (Lee et al. scheme 2). However, it is only if it reacts with the sulfur of the thiourea that the desired product would be obtained. Therefore, a person skilled in the art could not and would not know which products are obtained by changing the nucleophilic properties of the group X, as by using NR5 or sulfur instead of

oxygen, as he would not know where TsCl reacts in the new molecule. Thus, contrary to the Examiner's unsupported assertions, a person skilled in the art and having the cited disclosures before him would not know which products would be obtained by changing the nucleophilic properties of X by using NR5 or Sulphur, because he would not know where TsCl will react in the new molecule, much less whether the carbodiimide is formed at all.

That is, Williams et al. only shows that nitrogen can be used as a nucleophile in reactions of carbodiimides. However, the important step, the reaction with the TsCl to form the carbodiimide, is not suggested at all. (As mentioned above and as shown in Lee et al. (scheme 2), this step decides which product is obtained.) If the carbodiimide is not formed in the earlier step, it will be of no help to know that nitrogen can be used as a nucleophile.

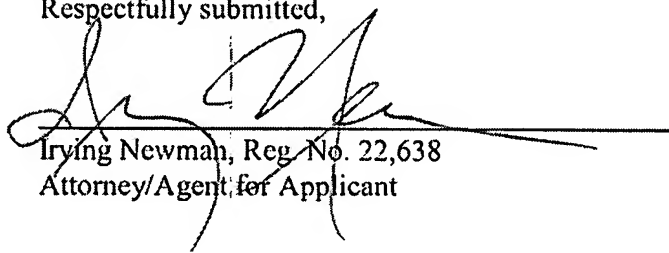
Therefore, the process described in the present claims was not obvious in view of the mentioned documents. Rather, this combination of references could only arise from the impermissible hindsight view afforded by the disclosure of the present application.

CONCLUSION

Accordingly, reconsideration and withdrawal of all rejections set forth in the Action are earnestly solicited. Applicants respectfully submit that the claims, 1-3 and 5-9, as previously amended, are now in condition for allowance, and respectfully request a notice to this effect.

The Commissioner is hereby authorized to charge any fees that are due with respect to this paper to Deposit Account No. 18-1982 for Aventis Pharmaceuticals Inc., Bridgewater, NJ. Please credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,



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